

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOHN W. BOLSCH AND THERESA BOLSCH,

NOTICE

Plaintiff(s),

v.

MW MECHANICAL, INC.,, HINES INTERESTS
LIMITED PARTNERSHIP AND 140 BW LLC,

Defendant(s).

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MW MECHANICAL, INC.,

Defendant/Third Party
Plaintiff

v.

HINES INTERESTS LIMITED PARTNERSHIP AND
140 BW LLC,

Third Party Defendants

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PLEASE TAKE NOTICE that Defendants Hines Interests Limited Partnership and 140 BW LLC, by their attorneys, PEREZ & VARVARO, hereby serve(s) Notice upon you that it expressly rejects service of papers in this matter upon them by electronic means.

PLEASE TAKE FURTHER NOTICE that waiver of the foregoing may only be affected by express prior written consent to such service by PEREZ & VARVARO and by placement thereby of PEREZ & VARVARO electronic communication number in the address block of papers filed with the Court.

DATED: March 19, 2008
Uniondale, New York

Yours, etc.,

PEREZ & VARVARO
Attorneys for Defendants
HINES INTERESTS LIMITED
PARTNERSHIP AND 140 BW LLC
Office and Post Office Address
333 Earle Ovington Boulevard
P.O. Box 9372
Uniondale, New York 11553-3644
(516) 745-8310

By: 
Joseph Varvaro (4224)

To:

Law Offices of Michael J. Asta
Attorneys for Plaintiffs
450 Seventh Avenue, Suite 2205
New York, New York 10123

Cohen, Kuhn & Associates
Attorneys for Defendant/
Third Party Plaintiff
MW Mechanical, Inc.
Two Park Avenue, 6th Floor
New York, New York 10016-5602

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
JOHN W. BOLSCH AND THERESA BOLSCH,

Case No.: 07 CIV 7680

Plaintiff(s),

v.

COMBINED DISCOVERY
DEMANDS AND NOTICE OF
DEPOSITION

MW MECHANICAL, INC.,, HINES INTERESTS
LIMITED PARTNERSHIP AND 140 BW LLC,

Defendant(s).

-----x
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MW MECHANICAL, INC.,

Defendant/Third Party
Plaintiff

v.

HINES INTERESTS LIMITED PARTNERSHIP AND
140 BW LLC,

Third Party Defendants

-----x

PLEASE TAKE NOTICE, that Defendants Hines Interests Limited Partnership and 140 BW LLC, by their attorneys, PEREZ & VARVARO, demands that each adverse party afford us the disclosure which this notice and demand specifies:

DEPOSITIONS OF ADVERSE PARTIES UPON ORAL EXAMINATION

A. Each adverse party is to appear for deposition upon oral examination:

(1) At this date and time: April 21, 2008 at 10:00 am

(2) At this place: PEREZ & VARVARO

333 Earle Ovington Boulevard

8th Floor

Uniondale, New York 11553

B. Pursuant to FRCP we designate the following as the identity, description or title of the particular officer, director, member, or employee of the adverse party specified whose deposition we desire to take: ALL PARTIES

C. Each deposition witness thus examined is to produce at such time and place, all books, papers, and other things which are relevant to the issues in the action and within that adverse party's possession, custody, or control to be marked as exhibits, and used on the examination.

DOCUMENTS

This is the demand that the plaintiff and/or MW Mechanical Inc. ("MW") serve copies of the following on the undersigned:

1. All documents such as contracts, work orders, proposals, bills, receipts, purchase orders, pertaining to the work plaintiff was performing at the time of his accident.

2. All discovery demands and responses served before our firm served its answer in this case.

3. MW's liability insurance policy that covers it for this case, including all declaration sheets and documents demonstrating the persons covered.

PARTY STATEMENTS

Each adverse party is to serve on us, within thirty (30) days from the service of this Demand, a complete and legible copy of any statement made by or taken from any individual party or any officer, agent, or employee of said party.

INSURANCE POLICIES

MW Mechanical is to serve, pursuant to FRCP 26, within thirty (30) days from the service of this Demand, a complete and legible copy of each primary or excess insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of any judgment which may be entered in this action or to indemnify or reimburse for payments made to satisfy any such judgment.

ACCIDENT REPORTS

Each adverse party is to serve, pursuant to FRCP 26, within thirty (30) days from service of this Demand, a complete and legible copy of every written report of the accident or other event alleged in the complaint prepared in the regular course of that adverse party's business operations or practices.

PHOTOGRAPHS AND VIDEOTAPES

Each adverse party is to serve within thirty (30) days from the service of this Demand, complete and legible photographic or videotape reproductions of any and all photographs, motion pictures, maps, drawings, diagrams, measurements, surveys of the scene of the accident or equipment or instrumentality involved in the action or photographs of persons or vehicles involved (if applicable) made either before, after or at the time of the events in question, including any photographs or videotapes made of the plaintiff at any time since the incident referred to in the Complaint.

WITNESSES

Each adverse party is to serve within thirty (30) days from the service of this Demand, the name and address of each witness to any of the following:

1. The accident, occurrence or any other event set forth in the complaint.

2. Any fact tending to prove actual or constructive notice of any condition which may give rise to the liability of any person, whether or not a party, for any damages alleged in this action.

3. Any admission, statement, writing or act of our client.

EXPERT WITNESS MATERIAL

Each adverse party is to serve, pursuant to FRCP 26, within thirty (30) days from the service of this request, a copy of his or her expert's report.

PLEASE TAKE FURTHER NOTICE that we will object at trial to the offer of any proof of an expert's qualifications which are different from or additional to those which the adverse party calling the expert had disclosed in reference to sub-paragraph D.

COLLATERAL SOURCE INFORMATION

Each plaintiff seeking to recover for the cost of medical care, dental care, custodial care or rehabilitation services, loss of earnings or other economic loss is to serve, pursuant to FRCP 26, thirty (30) days from the service of this Demand, a statement of all past and future cost and expense which has been or will, with reasonable certainty, be replaced or indemnified, in whole or in part, from any collateral source such as insurance (except life insurance), social security, workers' compensation, or employee benefit programs. Each such statement is to set forth the name, address, and insurance policy (or other account) number of each collateral source payor; and, separately stated for each payor, a list specifying the date and amount of each payment and the name, address, and

social security number or other taxpayer identification number of each payee.

PRODUCTION OF MEDICAL REPORTS AND AUTHORIZATIONS

Each plaintiff is to serve upon and deliver to us within thirty (30) days from the service of this Demand:

Medical Reports and Bills: Copies of the medical reports and bills of those health professionals who have previously treated or examined the plaintiff. Those reports shall include a detailed recital of the injuries and conditions as to which testimony will be offered at the trial, referring to and identifying those diagnostic tests and technicians' reports which will be offered at the trial.

Medical Authorizations: Current duly **executed and notarized** written medical authorizations, complying with the Health Insurance Portability and Accountability Act ("HIPAA"), 45 C.F.R. §164.508(a), (using attached form) permitting all parties to obtain and make copies of the records and notes including any intake sheets, diagnostic tests, X-Rays, MRIs and cat scan films, of all treating and examining hospitals, physicians and other medical professionals.

PRODUCTION OF RECORDS AND AUTHORIZATIONS

Each plaintiff is to serve upon and deliver to us within thirty (30) days from the service of this demand current duly **executed and notarized** fully addressed written authorizations permitting all parties to obtain and make copies of each of the following:

A. All workers' compensation records and reports of hearings pertaining to the incident alleged to have occurred in plaintiff's complaint maintained by the workers' compensation Board and workers' compensation carrier. Please include workers' compensation Board number and workers' compensation Carrier number.

B. All records of present and past employment of plaintiff.

C. All records in the no-fault file of any carrier issuing benefits to the plaintiff arising out of the incident alleged to have occurred in the complaint. **Please include the claim number.**

D. All records of the Internal Revenue Service filed by the plaintiff for the calendar year prior to the date of the incident alleged in the complaint and for the two subsequent years. Please use IRS form 4506 and attach 2 copies of identification of the plaintiff, with photo and signature as required by the IRS.

E. All records of schools attended by plaintiff.

F. All records of each collateral source that has provided and/or in the future will be providing any payment or reimbursement for expenses incurred because of this incident. Please include the policy number and the name of the policy holder.

NAMES AND ADDRESSES OF ATTORNEYS

Each adverse party is to serve on us, within thirty (30) days from service of this Demand, the names and addresses of all attorneys having appeared in this action on behalf of any adverse party.

PLEASE TAKE FURTHER NOTICE THAT THESE ARE CONTINUING DEMANDS, and that each demand requires that an adverse party who acquires more than thirty (30) days from the service of this demand any document, information, or thing (including the opinion of any person whom the adverse party expects to call as an expert witness at trial) which is responsive to any of the above demands, is to give us prompt written advice to that effect; and, within thirty (30) days (but no less than sixty (60) days before trial), is to serve all such information on us and allow us to inspect, copy, test, and photograph each such document or thing.

PLEASE TAKE FURTHER NOTICE that we will object at trial, and move to preclude as to any adverse party who does not timely identify any witness, serve any report, or produce any document, information, or thing which is responsive to a discovery demand set forth in any of the ensuing paragraphs:

A. From calling any event or notice witness not identified to us or medical expert whose reports have not been served on us;

B. From calling any other expert witness whose identity, qualifications, and expected fact and opinion testimony (together with a summary of the grounds for each such opinion) have not been served on us;

C. From putting in evidence any exhibit not served on us or produced for us to discover, inspect, copy, and photograph in accordance with any of the ensuing paragraphs; and

D. From offering any other proof not timely disclosed pursuant to a court order in this action.

DATED: March 19, 2008
Uniondale, New York

Yours, etc.,

PEREZ & VARVARO
Attorneys for Defendants
HINES INTERESTS LIMITED
PARTNERSHIP AND 140 BW LLC
Office and Post Office Address
333 Earle Ovington Boulevard
P.O. Box 9372
Uniondale, New York 11553-3644
(516) 745-8310

By: 
Joseph Varvaro (4224)

To:

Law Offices of Michael J. Asta
Attorneys for Plaintiffs
450 Seventh Avenue, Suite 2205
New York, New York 10123

Cohen, Kuhn & Associates
Attorneys for Defendant/
Third Party Plaintiff
MW Mechanical, Inc.
Two Park Avenue, 6th Floor
New York, New York 10016-5602